

**TOWN OF DARIEN  
BOARD OF SELECTMEN  
REGULAR MEETING  
MONDAY, SEPTEMBER 21, 2009**

**ATTENDANCE:** 1<sup>st</sup> Selectwoman Evonne Klein; Seth Morton; David Bayne;  
Callie Sullivan; Linda Santarella

**STAFF:** Karl Kilduff, Administrative Officer

**OTHERS:** Jim Cameron, RTM; Karen Armour, RTM; Wayne Fox, Esq.;  
Carolyn Schoonmaker; Police Chief Duane Lovello;  
Bob Steeger, Public Works Director

**8:00 p.m. – Public Hearing on Amendment to Parking Regulation Creating Incentive  
Parking Pricing Structure**

1<sup>st</sup> Selectwoman Klein called the Public Hearing to order at 8:00 p.m.

Mr. Jim Cameron, 55 Dubois Street, RTM member, asked them to explain specifically what the ordinance will do.

Mr. Kilduff explained that the regulation is not going to be specific to the number of spaces. There is an added definition to the Town parking regulations which calls for an incentive parking permit, which is defined as a special permit to be used in selected designated areas where the regular permit price has been discounted to encourage parking in designated spaces.

He said that the next area of revision is the addition of an additional fee schedule, which the Board will give final direction on later in the agenda when it is adopted for what the incentive rate is. He said that in a previous meeting, it was discussed that there are 15 spaces at the Tokeneke Road lot, 20 spaces at the Leroy West lot, and 40 spaces at the Post 53 lot.

Mr. Bayne confirmed that these are the only changes to the parking regulations.

1<sup>st</sup> Selectwoman Klein closed the Public Hearing at 8:02 p.m.

**CALL TO ORDER**

1<sup>st</sup> Selectwoman Klein called the Regular Meeting to order at 8:02 p.m.

**PUBLIC COMMENT**

*These comments have been summarized and are not to be considered verbatim.*

Mr. Stella Clark, 11 Salt Box Lane, spoke on behalf of Feed My Starving Children. On October 3<sup>rd</sup> and 4<sup>th</sup>, the Christian, non-profit hunger relief organization will be hosting a mobile packaging event where parent volunteers will package 225,000 meals at the middle school in 7 shifts.

Ms. Sullivan said that there is a very informative video on this, and it is available on their website at [www.fmssc.org](http://www.fmssc.org).

### **REPORT from Town Counsel Wayne Fox on 35 Leroy Option to Lease Agreement**

Mr. Morton said he was disappointed that Mr. Fox was not at the Rules Committee meeting. He said that he felt Mr. Fox could have answered a lot of questions that night on the topic of 35 Leroy Avenue. Mr. Fox said that he believed that all questions are good questions, and he could answer any questions they had now.

Mr. Fox said that he understands the one major concern is that somehow Mutual Housing could force the RTM to approve the option to lease, and he said the answer to that is no. The option itself is very clear, and it lists three different locations within the option, and any lease is subject to approval by both the Board of Selectmen and the RTM.

Mr. Fox explained more details regarding this Option to Lease Agreement. He said there was particular concern relating to Paragraph 14 in the Option. It talked in terms of both parties agreeing to use their best efforts. He said one could question why it was there at all. He said that Mr. Stegelman brought it to their attention, and said Mr. Stegelman said he would take care of it. He did, and he took that part of the paragraph out. Mr. Fox is waiting for the final document.

Mr. Fox then discussed the next option, Control, Maintenance, and Expenses of the Property. He said that under this option, the Town has complete control and ownership of the property until the lease is executed. The only time that Mutual Housing would have the opportunity to go on the site, would be with the Town's permission, for normal testing.

Mr. Fox said that this option is very clear, it benefits his client, and in no way does this option override what is rightfully and correctly the authority of the RTM.

1<sup>st</sup> Selectwoman Klein asked Mr. Fox to clarify who his client was. Mr. Fox said that in the Charter, Chapter 4, Section 19, it states the definitions and qualifications of Town Counsel. The position is one that is appointed by the Board of Selectmen, but the Board of Selectmen is not one's only client. The Charter is clear, stating that upon the request of the Board of Selectmen, or of any other Town Officer, Board or Commission, shall furnish to the Board of Selectmen and such Officer, Board or Commission, a written opinion on any question, powers or duties, etc. He said that his office is hired by the Board of Selectmen, and his client is the Town and it's Commissions and agencies, including the RTM, and they make up the Board.

Mr. Bayne said he thought Mr. Fox's presentation was clear and concise.

Ms. Santarella said she thought that Mr. Fox should have been at the Rules Committee meeting. 1<sup>st</sup> Selectwoman Klein said she spoke to the moderator prior to the Rules Committee meeting, and she said that the moderator felt that it wasn't an important item, that it would have been dispensed of quickly, and that Mr. Fox didn't have to be there. Then she read the article in the paper and realized that the issue had not been resolved at all. When they had left the meeting, the feeling was that it had been resolved. She asked Mr. Fox if he had heard from anyone on the Rules Committee about the meeting. She said they had received an agenda for the 9/28/09 RTM Meeting that listed 35 Leroy Avenue as one of its agenda items, and she asked Mr. Fox if he planned on being at the meeting. Mr. Fox said he will be at the 9/28/09 meeting, and would be pleased to answer any questions the Board might have.

Ms. Santarella asked who will be giving the informational update at the meeting. Mr. Fox said he would do that. There was discussion about whether the copy of the option was in the RTM packet. Mr. Kilduff confirmed that the Town Clerk had requested a copy of the option and it was in the packet. Ms. Karen Armour said there wasn't any recap of the Rules Committee meeting in the packet. She expected to get the draft minutes tomorrow and intends to give a brief update at the 9/28/09 meeting.

Discussion continued among the Board of Selectmen and Ms. Armour regarding the lease option, the Rules Committee meeting, and the newspaper article information. It was mentioned that members of the Rules Committee didn't have copies that night, and Ms. Armour said she didn't know that they didn't have copies. She said that several people had told her that they knew of the information, it was on the website and it was public information. Ms. Santarella said people at the meeting that night asked why the Board of Selectmen didn't give them the information, and she felt it was an unfair attack on the administration.

Mr. Bayne said that the disturbing part was the timing. He explained that Mr. Fox gave his opinion at the Board of Selectmen meeting in early April, and then gave the same opinion to the RTM in April, that the option was at the discretion of the Board of Selectmen and a full lease would be provided to the RTM for its approval. He said that if people had questions, they should have raised them in April, not in September, after the option was executed. Ms. Armour said that the lease hadn't even been drafted in April. Mr. Bayne found in the minutes that the draft of the option was reviewed at the April meeting, with Mr. Fox completely and accurately describing the draft at the Board of Selectmen meeting and the RTM meeting..

1<sup>st</sup> Selectwoman Klein said that this is a sensitive issue that has been debated for a while, and she didn't want anything to be taken personally.

Ms. Carolyn Schoonmaker asked the status of the ground lease. Mr. Fox said that there is no ground lease; there is a draft that has not been finalized, is not an exhibit to the lease, and the option stands alone.

Ms. Joi Reiner Gallo asked if the ground lease had been substantiated, and she asked about the maintenance costs. 1<sup>st</sup> Selectwoman Klein said that this had been asked and answered at the Rules Committee meeting, saying that there is a \$27,000 line item in the budget that had been reviewed by the Board of Selectmen, the Board of Finance, and the Rules Committee. The number is what they all agreed upon was the appropriate number to be the carrying cost for the library. She said that no one questioned it at the time.

Mr. Fox said that with any property the town owns, they maintain and pay for its maintenance on a year-to-year basis. The obligation would be such until the property is leased or sold.

### **REPORT from Police Chief Duane Lovello regarding Communications Console**

Police Chief Duane Lovello gave a brief update following his meeting with the Police Commission. He said there are issues with the present Communications Console. He said the plan is to replace the console at the start of the renovation, but as of December 31, 2009, the parts will not be available any longer. Police Chief Lovello said that \$250,000 is needed to completely upgrade the console and move it to the new building. He asked the Board to consider his request.

Mr. Bayne asked if this would be a transfer, or did Police Chief Lovello want to wait and put this in the budget for 2010. Police Chief Lovello said that it would be preferable to put this in place now to avoid a catastrophic failure of the console.

The Board of Selectmen asked him to please submit in writing to Mr. Kilduff a request to be put on the October 5, 2009 meeting agenda.

### **REPORT from Public Works Director Robert Steeger regarding flood mitigation efforts**

Mr. Robert Steeger said that the DEP Public Hearing on the Stony Brook tributary flood control project was held on September 10, 2009, with the evidentiary hearing continuing in Hartford on September 15 and September 17. The difference is that during the evidentiary hearing, all testimony is sworn and all witnesses are subject to cross examination. Testifying for the Town was 1<sup>st</sup> Selectwoman Klein, Bob Steeger, Wayne Kenney, Leonard Jackson, Mark Whittick and Mike Sears from the Design Team. Testifying for the intervener were James Tatum and Barry Hammonds. The DEP also testified in full support of the Town's application. The intervener's expert witness underwent withering cross examination by our Town Counsel, and in Mr. Steeger's opinion, it didn't appear to go well for them. The hearing closed Thursday, September 17, and the next step is the submission of briefs. It was mentioned that it could be several weeks or months before the recommendation is made.

More discussion took place regarding the flooding issue.

Mr. Steeger continued with his report, saying that the Goodwives River project is underway, and he expects results in early October with a public meeting to follow. A final report is expected in

mid-November. He said that the Flood Mitigation Committee is reviewing the recommendations for the Stony Brook Watershed Study, and they have met twice to date. He expected a recommendation in the next month or so.

### **NEW BUSINESS**

- a) Discuss Possible Local Ordinance Creating a Tax Exemption for Certain Handicapped Vehicles
- b) Discuss Grant Funding Available Under a DPUC for Energy Reliability for Mission Critical Facilities

**\*\* MR. BAYNE MOVED TO TABLE ITEMS A AND B.**

**\*\* MR. MORTON SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

- c) Discuss and Take Action on Amendment to Parking Regulation Creating Incentive Parking Pricing Structure

Mr. Kilduff said that the only thing left to determine is the pricing, at either \$150 or \$200.

Mr. Bayne said that Mr. Kilduff did a great job on the regulations, and he voted to go with the \$200 pricing fee. If there isn't sufficient interest at that level, the price can always be lowered for the incentive permits the following year.

Ms. Santarella agreed with Mr. Bayne's interest in going with the \$200 pricing fee.

Mr. Morton agreed with the \$200 pricing fee.

**\*\* MR. BAYNE MOVED TO ADOPT THE REGULATIONS AS PROPOSED WITH THE PERMIT PARKING RATE ESTABLISHED AT \$200.00.**

**\*\* MS. SULLIVAN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**\*\* MS. SANTARELLA MOVED TO ADD THE FOLLOWING ITEM TO THE AGENDA:**

- d) Discuss and Take Action on Granting Permission to the ITP Foundation to hold the 5<sup>th</sup> Annual ITPMAN Triathlon on Saturday, September 26, 2009, starting at Weed Beach, subject to the requirements of the Darien Police Department.

**\*\* MS. SULLIVAN SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**\*\* MS. SANTARELLA MOVED TO APPROVE GRANTING PERMISSION TO THE ITP FOUNDATION TO HOLD THE 5<sup>TH</sup> ANNUAL ITPMAN TRIATHLON ON SATURDAY, SEPTEMBER 26, 2009, STARTING AT WEED BEACH, SUBJECT TO THE REQUIREMENTS OF THE DARIEN POLICE DEPARTMENT.**

**\*\* MR. BAYNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

### **1<sup>st</sup> SELECTWOMAN'S REPORT**

This was tabled.

### **ADMINISTRATIVE OFFICER'S REPORT**

This was tabled.

### **AGENDA REVIEW**

This was not discussed.

### **APPOINTMENTS & REAPPOINTMENTS**

Consider and Take Action on the following appointment:

Wynne Shapiro (D) as a member of the Environmental Protection Commission, for the term beginning on 7/1/09 and expiring on 6/30/12.

**\*\* MS. SULLIVAN MOVED TO APPOINT WYNNE SHAPIRO (D) AS A MEMBER OF THE ENVIRONMENTAL PROTECTION COMMISSION FOR THE TERM BEGINNING ON 7/1/09 AND EXPIRING ON 6/30/12.**

**\*\* MR. BAYNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

### **APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

Regular Meeting of April 13, 2009 (rewrite)

Regular Meeting of May 4, 2009 (rewrite)

Regular Meeting of August 24, 2009  
Executive Session Meeting of September 1, 2009  
Executive Session Meeting of September 14, 2009

The approval of the minutes from the above listed meetings was tabled until the next meeting.

### **FORTHCOMING MEETINGS**

September 22, 2009	Board of Education Regular Meeting at 7:30 p.m.
September 22, 2009	Planning & Zoning Public Hearing at 8:00 p.m.
September 28, 2009	RTM Meeting at 8:15 p.m.
October 5, 2009	Board of Selectmen Regular Meeting at 8:00 p.m.
October 7, 2009	Joint Town Dept. Heads Meeting at 8:30 <b>a.m.</b>
October 6, 2009	Planning and Zoning Planning Meeting at 8:00 p.m.
October 13, 2009	Board of Education Regular Meeting at 7:30 p.m.

### **OTHER BUSINESS**

(Any items added to the agenda require a two-thirds vote)

### **ADJOURNMENT**

**\*\* MS. SANTARELLA MOVED TO ADJOURN.**

**\*\* MR. BAYNE SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Carolyn Marr  
Telesco Secretarial Services

